

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
LUFKIN DIVISION

BOBBY EARL NEBLE	§	
v.	§	CIVIL ACTION NO. 9:05cv86
BRAD LIVINGSTON, ET AL.	§	

MEMORANDUM OPINION AND ORDER OF DISMISSAL

The Plaintiff Bobby Neble, an inmate of the Texas Department of Criminal Justice, Correctional Institutions Division proceeding *pro se*, filed this civil rights action under 42 U.S.C. §1983 complaining of alleged violations of his constitutional rights. The parties have consented to allow the undersigned United States Magistrate Judge to enter final judgment in this proceeding pursuant to 28 U.S.C §636(c).

On December 12, 2005, Neble filed a motion asking that his lawsuit be dismissed. Rule 41(a), Fed. R. Civ. P., permits plaintiffs to dismiss their actions without need for leave of court by either filing a notice of dismissal prior to service of a responsive pleading or by filing a stipulation of dismissal signed by all parties. Rule 41(a)(2), Fed. R. Civ. P., states that except as provided in Rule 41(a)(1), an action shall not be dismissed at the plaintiff's instance except upon order of court and upon such terms as the court deems proper.

In this case, Neble has asked that his lawsuit be dismissed. The Court has considered this request and has determined that it is meritorious. It is accordingly

ORDERED that the Plaintiff's motion for voluntary dismissal of his lawsuit be and hereby is GRANTED and the above-styled lawsuit is hereby DISMISSED without prejudice on the motion of the Plaintiff. It is further

ORDERED that any and all motions which may be pending in this civil action are hereby DENIED.

So ORDERED and SIGNED this **16** day of **December, 2005**.



JUDITH K. GUTRIE
UNITED STATES MAGISTRATE JUDGE